1951 . K **File No.** Shops & Est II/51(N)

Legal Dept.

13 BRANCH

Subject:— Notifications under the Bombay Shops and Establishments Act, 1948

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File No. Shops & Est. II/51 (N)

Gen. 194

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Legal Department.

The proposal is to notify all charitable trusts etc., as establishments under section 2(8) and then apply to them the provisions of Chapter III which apply to commercial establishments.

2. It is true that the State Government is empowered by section 5 of the Act to declare any class of establishments to which the Act does not for the time being apply, to be a class of establishment to which the Act or provisions thereof with such modifications and adaptations, as may in the opinion of the State Government be necessary shall apply. Section 2(8) would apply to establishments after they are declared to be so undr section 5.

3. Section 2(a) of the Act excludes those charitable trusts which do not carry on any business, trade or profession or work in connection wity incidental or ancillary thereto. As the legislature has specifically expressed its intention that such class of charitable trusts should not be commercial Establishments for the purpose of this Act, it would not be proper for Government to apply the provisions of the Act to them under the general power given to it under section 5of the Act. In this case the legislature has furnished a sufficiently definite standard to guide and limit the executive authority in exercise of is powers. The exercise of such power in declaring all offices of all charitable trusts to be commercial establishments for the pruposes of the Act and directing that the provisions of Chapter III shall apply to them would the repugnant to the provisions of section 2(4) of the Act and would be in excess of these powers.

4. There is however no legal objection to

declaring ....

-ng all offices of charitable trusts to be establishments for the pruposes of the Act. In that case it is for Government to decide what provisions of the Act (other than the provisions of Chapter III) shall apply to them.

Sd/- J.R.Dhurandhar

O.C. 31/1

Additional Secretary to Government.

U.R. to L. & E.D. No 1899 dated the 31st Janaury 1951.

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4 Cs.